G. R. S. 58]

Previous references.

R V
1923
(Mysore)

File No. 211/1923
Serial Nos. 5

Later references.
Mys 211-23 - 39-42
54-32 16-18

GENERAL AND REVENUE SECRETARIAT.

Serial No. 5

Part B for August 28

SUBJECT

Kelasandra Land Acquisition cases.

Orders please see main file 211-23 & S 6-28

Hall
8. 9. 25

Muz 1] 1923.

MUZRAI SECRETARIAT.

(Muz.)

NOTES

File No. 11 / 1922

FILE HEADING

Acquisition of certain Survey nos. in the Vill. Sandra Village, C & M Station, Bombay, for the construction of the model Houses for Mill Hands

From The Secretary to the Resident in Kolhapur

No 8606 / 131-1903 Dated 1-11-1923 Received 2-11-1923

Diary No. 599 | Enclos. - Spare Copies. - | Serial No 5

BRIEF ABSTRACT OF LETTER.

Communicates his observation on certain points raised in this office corr^n no. Jud 2033 dt. 26-8-1924, in the matter of the Compensation to the inamdar temple - Dharmaraya Swami in respect of the said acquisition.

NOTES AND ORDERS.

Muz. 7. 211-23 on the subject explains the facts of the case. In the matter of the payment of compensation to the inamdar temple certain points were raised in this office corr^n dt 26th August 1924

NOTES--First Sheet

WD 0560—GPB—500—9 8 22

pointing out the irregularity in the procedure adopted for the said acquisition, and the Residency have sent in their reply.

Re para 1; "It does not appear that the contention that the non-service of a notice would vitiate the proceedings and invalidate the absolute title which the Govt acquired under Sec. 16 can stand". The claim has not been made that the Inamdar was unaware of the proceedings.

Re para 2; viz the failure to give notice under Sec. 12(2) deprived the Inamdar of his right to ask for a reference being made to the civil Court, it is mentioned that "if the Inamdar is not satisfied with the compensation proposed ....., he can institute a suit for obtaining these reliefs".

Re para 3, it is pointed out that "the contention that he (Meston) presumed the Kadim tenancy of the tenants when he passed the awards in this

Avoid repeats what is contained in the letter. You may give a brief substance of the Contents of the letter.

Serial No.

cannot stand".

"It is added in para 4 that the question of the compensation to which the Inamdar is entitled has been discussed in detail, and that there is nothing more to add to it on the subject."

May the file be sent on to the L. of Secretary for remarks? orders solicited.

Endorsement

AG 7/11/24 7/11/24

Please put up the papers

the file

4.VII.24.

Attended to.

Endorsement

AG 5-11-24 5/11

(1) The Decennial Digest II. 20. Vol. 3
(2) Donogh's L.A.J. Compensation.
These were obtained from the Chief Court
5/11/24

Memorandum of the Resident in Kathiawar in the matter of the acquisition of certain lands in N. Kathiawar Mahal. Para 2 and 3 of the Secretariat Paras 2 and 3 of the Secretariat Note seem to be acceptable As regards para 4 which has to be stated that the decision was guided by the Resident and Sanction the

NOTE—Contn Sheet

Serial No.

validity of the proceedings and when (1) either the omission of issue of notice was due to inadvertence or ignorance or (2) when the party had knowledge of the proceedings. In the present case, ~~it cannot be said that~~ there cannot be inadvertence or ignorance on the part of the Collector, ~~and~~ because he knew quite well the existence of the Inamdar tenant. When he says in para 3 that he was one of the Kadim tenancy of the occupants, he cannot plead ignorance or inadvertence of the existence of an Inamdar. This point may perhaps be pressed again. But it may not be of any material benefit, as the tenants are Kadim tenants & the temple cannot claim compensation for occupancy rights.

As regards para 4 of the reply, it does not answer the point. We asked at first Rs 1000 per ac of Conversion. The Respondents said it was according to Bombay Land Revenue Code which was not applicable when C & M State. They said that under Sec 35 of Bombay Act I of 1865 applicable in the territories, no Compensation was due in this account. It was pointed out in para 4 of our letter (Page C) that the Act is not applicable

NOTE—Contn Sheet

Serial No.

to Inam villages & Compensation must be paid to Inamdar on account of his loss in addition to whatever interest he had given to his rights. This is however a matter to be pressed at the time of Enquiry

D/ 6.11.21

Dear Sree,

Division Given by the Resident is by no means satisfactory. As regards para 10 2 of the letter, it may be urged that the non-exercise of the right to the principal Dargah by the Inam dar cannot be pleaded or urged in the manner attempted in the Appeal. As regards para 3, the Collector could not in fairness object the question of the rights of the tenants to Kadim tenancy rights unless they are Inamdars.

It is for orders as to what lines further action should be taken. As Resident is enjoined under the Treaty to enquire into the claims of the people, he may be the claims of

NOTE—Contn. Sheet

Serial No

Temple at the enquiry and if we get complete satisfaction, no further action may be necessary. If the result is not satisfactory, we may reconsider the whole position.

The L. D. may also may be consulted on the legal aspects of the case now urged by the Resp.

11/11.11

11 Dr.

12/11/24

My opinion in the case is contained in my minute dt 3/8/24 in file no 211

[redacted]

So long as the Resp. are prepared, reasonable our legitimate claims for compensation as representatives of the Dharmadar temple, I think it is unnecessary to enter into any discussions about the legal aspects of the proceedings.

As I have already observed, if, in the future the Dep. Comr. communicates to the collector of the CPN statement that the tenants in possession of the disputed properties were Kadim tenants, we would now be entitled to assume that they were not Kadim tenants and to secure the release of the lands of this Dharmadar temple from the Surety bond we have taken, if necessary from the Surety and we would be satisfied ~~with~~ NOTE—Contd. Sept. ~~the statement of~~

File No. of 19

General and Revenue Secretariat.

Serial No

NOTE—Contn. Sheet

G. R. S. III-2.

General and Revenue Secretariat. | File No. of 19 25

Serial No.

[illegible] (this is occupant of the land was tenant) was incorrect & ~~[illegible]~~ to obtain [illegible] an [illegible] ~~[illegible]~~ obtained for the above statement.

With regard to the capitalised value of rent (assessment) which the Collector was getting from the occupant. The Res.t has agreed to compensate us; and as the land is now held by assessee the Govt. can, or Revenue Dept. the Collector was getting for the lands & the amt. of yearly [illegible]. This was kept secret & first ~~[illegible]~~ the calculated the capitalised value of the difference. which shall then claim from the Res.t.

~~[illegible]~~ Difficulty when as the above point arises the ~~[illegible]~~ ~~[illegible]~~ & the Res.t thereupon addresses in the matter of the payment from the Treasury & Govt. empr. or the empr. may be [illegible] & the Govt. address & the Collector for compensation from the Govt. empr.

It is [illegible] papers. as the Govt. have all been dealt with under the orders of the Govt. [illegible] Govt. may [illegible] also [illegible] the Govt. & [illegible]

[illegible]

[illegible] 1924

[illegible]

[illegible]

[illegible]

G. R. S. III 2]

Muzrai Secretariat | Muz. File No. of 192

C. 57. M
Land

Serial No.

My considered opinion was given on 18th July 1924 (Flag P) The Residency cannot plead ignorance or inadvertence on the part of the Chairman of the Inamdars in the face of this assertion contained in their letter (para 2) of 14th May 1924. As the claim of the Inamdars for Compensation is conceded by the Residency there is no purpose gained by putting forward the legal aspect of the case. This may be reserved for adjudication if the Residency do not pay adequate compensation to be claimed by Govt on behalf of the Inamdars.

As suggested by the Commissioner Northern Division, the enquiries to be made on the lines mentioned by him.

Rev Secy
with Compts

8-4
21.4
21.11

Dy. 21.11.24

Dy. engineering Services.

AG
22.11.24

Pl. apply orders overleaf

22.11.24

Rev Secy/ The opinion of the A.G. Sey is for perusal—
As in para 2 of the Revenue letter it is stated that the Inamdars engaging with the Engineering claims have not been Compensated

NOTE—Contn. sheet

WD 0561—APL—3750—I 8 22

G. R. S. III-2]

Muzrai Secretariat | Muz. File No. | of 192

Serial No.

x that the question of Communal
papers in the Inam- have
been received for drawing, we
may ask the D.C. to pass us
claims of the temple upon
the collector. If the claim of
the Colln is not- taken back,
the question of disposing the
case to the Civil Courts
may be considered.
Reading also may be
furnished according

22.11.22

11/22.11.22.

592/22.11

11

11/22 11.11.

NOTE—Contn. sheet

WD 0561—GPB—3750—1 S 22

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 131-1903.

3-NOV 1924 MUZR.

From

A. N. L. Cater, Esq., I.C.S.,

Secretary to the Resident in Mysore.

To

The Secretary to the Government of Mysore,

Revenue Department.

1 - NOV. 1924 SECTION

Dated Bangalore November 192

ACQUISITION OF CERTAIN SURVEY NUMBERS IN THE NILSANDRA VILLAGE, CIVIL & MILITARY STATION, BANGALORE, FOR THE CONSTRUCTION OF MODEL HOUSES FOR THE POOR.

Sir,

In reply to your letter No. Pol.207/Muz.211-23-4, dated the 26th August 1924, I am directed to state that the circumstances in which a notice under Section 9(3) of the Land Acquisition Act was not issued to the Inamdar were already explained in my letter No.3934, dated the 14th May 1924. It does not appear that the contention that the non-service of such a notice would vitiate the proceedings and invalidate the absolute title which the Government acquired under Section 16 can stand. This title is not affected by the non-service of any special notices (Section 9(3)), through inadvertence or ignorance, on persons claiming an interest. [Ganga Ram Marwari versus Secretary of State (30 Cal. p.579) quoted at page 69 of W. R. Donogh's "Land Acquisition and Compensation". Attention is also invited to the commentary on Section 9(3) at page 59 of the same book]. A reference may also be made to the decision on the same point in Secretary of State versus Qamar Ali - printed at page 2414 of R. Narayanaswami Iyer's Decennial Digest of Indian Decisions, Volume 3. The claim has not been made that the Inamdar was unaware of the proceedings.

2. Paragraph 2 of your letter.- The notice under Section 12 (2) was not issued to the Inamdar as the proceedings, so far as he was concerned, had not been finally closed, the question of compensation payable to him having been reserved for decision after the receipt of the Deputy Commissioner's reply to the Collector's letter No.3131, dated the 14th October 1922. If the Inamdar is not satisfied with the compensation proposed and desires to establish his claim to the whole or part of the compensation awarded in favour of the occupants of the lands, he can institute a suit for obtaining these reliefs, and, if the court finds that the Inamdar's claim is valid, it can pass a decree in his favour on the strength of the third proviso to Section 31(2) - vide commentaries under Sections 18 & 31 at pages 78 and 160-162 of Donogh's Land Acquisition and Compensation. The Legislature has thus sufficiently safeguarded the rights of real owners and the Inamdar cannot have any real grievance by the non-service of notice or payment of compensation to the occupants of the lands.

3. Paragraph 3 of your letter.- I am to invite a reference to paragraph 4 of my letter No.3934, dated the 14th May 1924, from which it will be seen that the ryots have acquired a heritable and transferable right over the lands in question, and that they were permanent tenants and not tenants at will. The Collector states that these facts were well known to him at the award proceedings; otherwise he would not have passed the awards in favour of the occupants. In the circumstances the contention that he had presumed the Kadim tenancy of the tenants when he passed the awards in their favour cannot stand.

(Sl. 3 in F.no. 211-23) D.

Section 30 gives the Collector discretion to refer difficult cases to the decision of the court, but he is not bound to do so. The words in the previous Act (X of 1870) were "shall refer". The alteration "may refer" in the present Act was made presumably in order to give the Collector complete discretion in the matter.

4. The question of the compensation to which the Inamdar is entitled has already been discussed in detail and there is nothing more to add on the subject.

I have the honour to be,

Sir,

Your most obedient servant,

SECRETARY TO THE RESIDENT.

BJ

Pol 253

No. 6743
131-1903

Bangalore, the August 1924.

FROM

A. N. L. Cater, Esq., I.C.S.,

SECRETARY TO THE RESIDENT IN MYSORE.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
Revenue Department.

*Subject

Acquisition of certain Survey numbers in the Nilsandra village, Civil and Military Station, Bangalore, for the construction of Model house for the poor.

SIR,

I am directed to invite attention to the communication noted on the margin and to request the favour of an early reply.

No. 3934 dated the 14th May 1924.

~~Subsequent Reminder~~

~~No.~~ ~~dated~~

I have the honour to be,

SIR,

Your most obedient servant

SECRETARY TO THE RESIDENT.

The Compile has been sent to the Dewan with a draft reply for approval.

MVR 21/8/24

Hanbar appd. 26.8.24.

S. S.—R. P B—4-1920—3,000.

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.

The draft has issued today BG 26.8.24

Place in the file BG

N.B.—Should routine notes be written on small slips the notes must be gipoed, or slips pasted on this form.

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

N B Should routine notes be written on small slips the notes must be copied or slips pasted on this form